

REMARKS

Claims 1-24 are pending in the subject application. Of those claims, claims 1-20 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-20 of commonly owned U.S. Patent No. 6,769,075. Remaining claims 21-24 are rejected under 35 U.S.C. Section 102(e) as being anticipated by U.S. Patent No. 6,460,084 to Van Horne et al. (“Van Horne”). These rejections are respectfully disagreed with, and are traversed below.

In the interest of advancing the prosecution of the subject application, attached herewith is a terminal disclaimer in compliance with 37 C.F.R. Section 1.321c. Accordingly, allowance of claims 1-20 is warranted.

Regarding the anticipation rejection of remaining claims 21-24 based on Van Horne, it is respectfully submitted that this reference does not teach nor suggest the subject matter set forth in these claims for at least the following reasons.

First, it is noted that Van Horne concerns session state, that is, information shared between a client and a server, leading the server to make assumptions about the likelihood of service requests from the client. In this patent, these assumptions concern the physical location of the user. The essence is that if the server concludes that the client is not currently in session (“disconnected” user session state) then the behavior of the server with respect to user requests is different than if the client is in session.

Van Horne does not disclose nor even suggest Applicants’ claimed method of operating a digital data processing system, as set forth in independent claim 21, or data storage business entity, as set forth in independent claim 24. For example, independent claim 21 recites, in part, that the method includes:

“detecting an activation of a user input that indicates that the system or a

program executed by the system has become non-responsive to the user;”

In contrast, Van Horne does not disclose an activation of a user input. This reference is concerned with a user request for access to a network file. This request may be programmatic, as it often is, not reflecting any user input. A user input does not in any way imply the generation of a user request to access a network file. Thus, Van Horne does not teach or suggest the detection of a user input, as claimed by Applicants. Moreover, a network access request from a user when the server believes that the client is disconnected is completely different from a user input indicating that the client itself has become non-responsive.

The second step of Applicants’ method relates to transferring selected user information to network-based data storage. In particular, independent claim 21 also includes:

“in response to detecting the activation of the user input, transferring to a data storage business entity, through a data communications network, selected user information;”

In contrast, Van Horne transfers selected user information to determine the physical location of the user, so that an appropriate portal page can be supplied. According to Applicants, selected user information is also supplied to network-based data storage. However, the selection is not done by the server and the information supplied is not limited to user information, but may also include system information, as well. Thus, Applicants employ a dynamic selection of information to send to data storage. Van Horne is not concerned with dynamic selection, but rather a physical location.

The last step of Applicants’ claimed method relates to the retrieval of user information and its return to the client. In particular, independent claim 21 also recites:

“operating the data storage business entity so as to store the transferred user information, and to subsequently transfer back to the digital data processing system at least some of the stored user information.”

Applicants respectfully assert that this step is also not taught by Van Horne. According to Van Horne what is returned to the client is a session-related information, and a Web page relevant to its physical location.

Moreover, in further contrast to Van Horne, the ability to return information captured as a result of finding the client non-responsive is important to the continued functioning of the client and not merely for the convenience of the network. Applicants claimed method concerns information relevant to the recovery of a non-responsive client, and the dynamic determination of what information to transmit and receive, not the fact that it is transmitted and received.

Applicants respectfully assert that for a rejection to be made on the basis of anticipation it is well recognized that "to constitute an anticipation, all material elements recited in a claim must be found in one unit of prior art", Ex Parte Gould, BPAI, 6 USPQ 2d, 1680, 1682 (1987), citing with approval In re Marshall, 578 F.2d 301, 304, 198 USPQ 344, 346 (CCPA 1978). As was shown above, the disclosure of Van Horne does not constitute all material elements of independent claim 21. Similarly, Van Horne does not disclose all material elements of Applicants' claimed data storage business entity, as set forth in independent claim 24 for reasons set forth above. In that claims 21 and 24 are clearly patentable over Van Horne then dependent claims 22-23 are clearly patentable, as well.

In view of the foregoing, the Examiner is respectfully requested to reconsider and remove the rejection of claims 1-24, to allow claims 1-24, and to pass these claims to issue.

Respectfully submitted:

Christine Wilkes Beninati Nov. 10, 2004
Christine Wilkes Beninati Date
Reg. No.: 37,967

Customer No.: 29683

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Art Unit: 2153

HARRINGTON & SMITH, LLP
4 Research Drive
Shelton, CT 06484-6212

Telephone: (203)925-9400
Facsimile: (203)944-0245
email: cbeninati@hspatent.com

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